

HOUSE BILL No. 1235

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-34.1.

Synopsis: Regulation of appraisal management companies. Requires appraisal management companies to register with the real estate appraiser licensure and certification board (board). Provides that the registration fee may not exceed \$500. Requires an individual who conducts appraisal reviews for an appraisal management company to be a licensed or certified appraiser. Prohibits an appraisal management company from contracting with an appraiser to perform an appraisal of a property if the appraiser does not meet certain standards. Makes it a Class A infraction for a person to perform appraisal management services without a certificate or registration.

Effective: July 1, 2010.

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January 11, 2010, read first time and referred to Committee on Financial Institutions.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

HOUSE BILL No. 1235

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 25-34.1-8-7.5, AS AMENDED BY P.L.52-2009,
2 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2010]: Sec. 7.5. (a) The investigative fund is established to
4 provide funds for administering and enforcing the provisions of this
5 article, including investigating and taking enforcement action against
6 real estate fraud and real estate appraisal fraud. The fund shall be
7 administered by the attorney general and the professional licensing
8 agency.

9 (b) The expenses of administering the fund shall be paid from the
10 money in the fund. The fund consists of:

11 (1) money from a fee imposed upon licensed or certified
12 appraisers and real estate brokers and salespersons under
13 IC 25-34.1-2-7 and IC 25-34.1-3-9.5; ~~and~~

14 (2) civil penalties deposited in the fund under IC 24-5-23.5-9(d);

15 (3) **registration fees imposed on appraisal management**
16 **companies under IC 25-34.1-11-16; and**

17 (4) **civil penalties deposited under IC 25-34.1-11-17.**



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(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Except as otherwise provided in this subsection, money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the investigative fund exceeds seven hundred fifty thousand dollars (\$750,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds seven hundred fifty thousand dollars (\$750,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against real estate and appraisal fraud under this article. The attorney general shall receive five dollars (\$5) of each fee collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5, and the licensing agency shall receive any amount that exceeds five dollars (\$5) of each fee collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5.

SECTION 2. IC 25-34.1-11 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 11. Appraisal Management Companies

Sec. 1. This chapter does not apply to a person that:

- (1) employs real estate appraisers exclusively on an employer and employee basis for the performance of appraisals;
- (2) is responsible for ensuring that appraisals performed by employees are performed in accordance with the Uniform Standards of Professional Appraisal Practice; and
- (3) accepts all liability associated with the performance of an appraisal by the employee in the course of the employee's employment.

Sec. 2. As used in this chapter, "appraisal" has the meaning set forth in IC 24-5-23.5-1.

Sec. 3. As used in this chapter, "appraisal management company" means a person that performs appraisal management services for a lender, financial institution, or other client.

Sec. 4. (a) As used in this chapter, "appraisal management services" means any of the following functions:

- (1) To administer an appraiser panel.
- (2) To recruit, qualify, verify licensing or certification, or negotiate fees and service level expectations with members of an appraiser panel.

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(3) To receive an order for an appraisal from a client and deliver the order for completion to a real estate appraiser who is a member of an appraiser panel.

(4) To track and determine the status of orders for appraisals.

(5) To conduct quality control of a completed appraisal before delivery of the appraisal to the client who ordered the appraisal.

(6) To provide a completed appraisal performed by a real estate appraiser to one (1) or more clients.

(b) The term does not include transportation or communication of an appraisal or order for an appraisal without concern for the appraisal information in the appraisal or the order for an appraisal, including transportation or communication by the United States Postal Service, a delivery company, a courier, or an Internet service provider.

Sec. 5. As used in this chapter, "appraiser panel" means a network of licensed or certified real estate appraisers that an appraisal management company has selected and approved to perform appraisals for:

(1) any client of the appraisal management company that orders an appraisal through the appraisal management company; or

(2) the appraisal management company directly, as assigned by the appraisal management company.

Sec. 6. As used in this chapter, "board" refers to the real estate appraiser licensure and certification board established by IC 25-34.1-8-1.

Sec. 7. (a) As used in this chapter, "person" means an individual engaged in a trade or business, an association, a partnership, a limited partnership, a limited liability company, a corporation, or a similar entity.

(b) The term does not include an employee.

Sec. 8. As used in this chapter, "real estate appraiser" has the meaning set forth in IC 24-5-23.5-5.

Sec. 9. An appraisal management company may not perform appraisal management services unless the appraisal management company has obtained a certificate of registration from the board under this chapter.

Sec. 10. (a) An appraisal management company that wishes to obtain or renew a certificate of registration under this chapter must submit the following information to the board on forms prescribed by the board:

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(1) The name of the person seeking registration.

(2) The business address of the person seeking registration.

(3) The telephone contact information of the person seeking registration.

(4) The name, address, and contact information of each person that has an ownership share in an appraisal management company that equals or exceeds five percent (5%) of the total ownership share of the appraisal management company.

(5) Any other information that the board reasonably requires.

(b) An appraisal management company that wishes to obtain or renew a certificate of registration must pay the fee established under section 16 of this chapter.

Sec. 11. (a) The board shall issue a certificate of registration to an appraisal management company that:

(1) has furnished the information required by section 10(a) of this chapter in the manner prescribed by the board; and

(2) paid the fee required under section 10(b) of this chapter.

(b) A certificate of registration issued to an appraisal management company under this chapter expires two (2) years after the date on which the certificate of registration is issued.

Sec. 12. (a) Except as provided in subsection (b), an appraisal management company that has a valid certificate of registration under this chapter shall not do the following:

(1) Employ an individual to perform an appraisal management service if the license or certificate of the individual to act as a real estate appraiser in Indiana or any other state has been refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation.

(2) Hire an independent contractor to perform an appraisal management service if the license or certificate of the independent contractor to act as a real estate appraiser in Indiana or any other state has been refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation.

(b) Subsection (a) does not apply to an individual whose license or certificate to act as a real estate appraiser has been refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation if the individual:

(1) holds a valid real estate appraiser's license or certificate issued by the board or equivalent authority in another state; and

(2) fully disclosed the refusal, denial, cancellation, revocation,

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or surrender in lieu of a pending revocation to the board or other issuing authority, as applicable, in the course of applying for the real estate appraiser's license or certificate or when otherwise required to do so.

Sec. 13. (a) As used in this section, "appraisal review" means the process of developing and communicating an opinion about the quality of a real estate appraiser's work that is performed as part of an appraisal assignment made by an appraisal management company. However, the term does not include an examination of an appraisal solely for grammatical errors, typographical errors, or similar errors.

(b) An individual who performs an appraisal review must hold a license or certificate under IC 25-34.1-3-8.

Sec. 14. (a) An appraisal management company performing appraisal management services shall maintain a record of each service request for an appraisal that the appraisal management company receives. The following must be included in a record maintained under this subsection:

- (1) The customer making the service request.
- (2) The date on which the service request is made.
- (3) The property to be appraised.
- (4) The real estate appraiser who performed the appraisal.
- (5) A copy of the appraisal produced for the service request.
- (6) The individuals who reviewed the appraisal.
- (7) The date on which the appraisal was delivered to the customer.
- (8) The costs and fees for the appraisal management services performed by the appraisal management company.
- (9) The costs and fees for the appraisal performed by the real estate appraiser.

(b) An appraisal management company shall keep the records described in subsection (a) for not less than six (6) years after the date specified in subsection (a)(2).

Sec. 15. The board shall prescribe forms for the registration of appraisal management companies under this chapter.

Sec. 16. (a) The board shall establish the registration fee to be paid by an appraisal management company seeking registration under this chapter. The amount of the registration fee must be the lesser of:

- (1) the amount determined by the board to be sufficient for the administration of appraisal management registrations under this chapter when aggregated with all the registration

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fees paid by appraisal management companies seeking registration under this chapter; or
 (2) five hundred dollars (\$500).

(b) Registration fees collected under this section must be deposited in the investigative fund established by IC 25-34.1-8-7.5.

Sec. 17. (a) An appraisal management company may not contract with a real estate appraiser to perform an appraisal of a property if the real estate appraiser does not meet the standards required to perform the appraisal of the property as established:

- (1) in the Universal Standards of Professional Appraisal Practice; and
- (2) by the board.

(b) The board may impose a civil penalty of not more than ten thousand dollars (\$10,000) for each violation of this section.

(c) A civil penalty collected under this section must be deposited in the investigative fund established by IC 25-34.1-8-7.5.

Sec. 18. (a) A person who performs appraisal management services without a certificate of registration under this chapter commits a Class A infraction.

(b) The attorney general, the board, or the prosecuting attorney of any county in which a violation occurs may maintain an action in the name of the state to enjoin a person from violating this section.

Sec. 19. The board may adopt rules under IC 4-22-2 that the board considers necessary or advisable for the administration of this chapter.

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